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MAR 29 1996

**OFFICE OF PETITIONS
AND PATENTS**

In re application of	:	
Klaus W. Hartig	:	
Application No. 08/552,366	:	Petition to Expunge
Filed: November 2, 1995	:	Dismissed
Atty Docket No. 12372.290	:	

The above noted application has been forwarded to the Special Program Law Office of the Office of the Deputy Assistant Commissioner for Patent Policy and Projects for consideration of a Petition To Expunge Confidential Information filed on November 2, 1995. The requisite petition fee accompanied the request.

The petition is DISMISSED as set forth below.

Petitioner requests that a sealed envelope, submitted in accordance with Manual of Patent Examining Procedure (MPEP) Section 724.05 and attached to the petition, be expunged from the record after consideration thereof by the examiner. Petitioner states that the sealed envelope contains proprietary information, namely a 22 page document and a 23 page document by AIRCO Corporation about its products known as Super-E-III and Super-E-IV, respectively. Also filed on November 2, 1995 is an Information Disclosure Statement (IDS) which includes, in addition to the other documents identified therein, redacted versions of the documents in the sealed envelope. The redacted versions are identified on the PTO-1449 form of the IDS as Airco Coating Technology, Super-E-III, 1/91, p. 1-22, and Airco Coating Technology Super E-IV, (1994?), p. 1-23.

Expungement of the sealed envelope labelled "Confidential Material Not Open to the Public ... Employee" will depend on whether or not the information therein is determined by the primary examiner to be material during the examination process. For purposes of expungement, materiality is defined as that information which an examiner would consider important in deciding whether or not to permit an application to issue as a patent.

Since the examination process has not been completed, however, the examiner's determination of materiality has not been established. Accordingly, the petition to expunge is premature

and it must be dismissed at this time. After the prosecution on the merits has been closed by the examiner and the examiner has indicated whether or not the information in the sealed envelope is considered to be "material" as has been defined above, applicant may re-submit a petition to expunge the proprietary information. No further fee will be required for such a second submission of a petition to expunge proprietary information under 37 CFR § 1.182.

This application is being returned to Examining Group 1300 via the Office of the Director. The examiner should indicate whether or not the identified information is considered to be material as defined above as such information will be needed in order to decide any further submitted petition to expunge. See Manual of Patent Examining Procedure Section 724.04(a).

Further correspondence with respect to this matter should be addressed as follows:

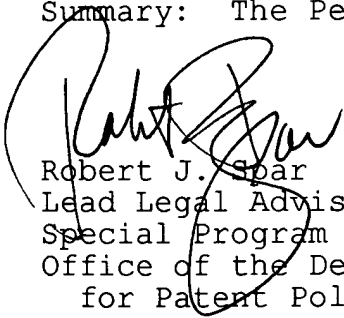
By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 305-9285.

Summary: The Petition to Expunge is dismissed.



Robert J. Spar
Lead Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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